

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

FILED
ASHEVILLE, N.C.

DEC - 3 2007

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA)

DOCKET NO. 1:07 CR 106

vs.)

BILL OF INFORMATION

1) HENDERSON AMUSEMENT, INC.)

Violations: 18 U.S.C. § 1955

2) JAMES OTIS HENDERSON,)
also known as Jamie Henderson)

18 U.S.C. § 666(a)(2)

18 U.S.C. § 1956(h)

3) BARRON SLOAN HENDERSON,)
also known as Barry Henderson)

18 U.S.C. § 2

4) JERRY PENNINGTON)

5) JEFFREY LEE CHILDERS)

THE UNITED STATES ATTORNEY INFORMS THE COURT:

At all times material to this Bill of Information:

Introduction

1. Beginning by October 1, 2000, and continuing through on or about August 2, 2007, HENDERSON AMUSEMENT, INC., its owners, employees, and other persons operating with HENDERSON AMUSEMENT, INC., conspired to conduct a large and lucrative illegal gambling business in the Western District of North Carolina by making cash payouts on hundreds of video poker machines in violation of the laws of the State of North Carolina. During the course of this conspiracy they took in more than \$10,000,000 in proceeds. To facilitate this illegal gambling business, they paid law enforcement officers to obtain the officers' assistance in operating the business and to interfere with law enforcement activities.

North Carolina's Laws Regulating Video Poker Machines

2. Concerned that there would be a large influx of video poker machines into North Carolina after the State of South Carolina banned such machines in 2000, the North Carolina General Assembly enacted laws, effective October 1, 2000, that banned any video gaming machines, including video poker machines, that were not already in operation in North Carolina by June 30, 2000. N.C.G.S. 14-306.1(a).

3. The 2000 law made it a criminal offense to make any cash payouts whatsoever, regardless of amount, based on the operation of a video gaming machines (sometimes referred to hereafter as simply the "machine" or "machines"). The greatest prize that could legally be won was a coupon

that could be exchanged for prizes or merchandise with a value not exceeding \$10.00. N.C.G.S. 14-306(b)(2).

4. Every video gaming machine had to be registered with the sheriff of the county where the machine owner wished to place it in operation, and each lawfully registered machine had to bear an official registration sticker provided by the sheriff. N.C.G.S. 14-306.1(i). The state law also prohibited the warehousing of video gaming machines. N.C.G.S. 14-306.1(m).

Henderson Amusement, Inc.

5. HENDERSON AMUSEMENT, INC., is a North Carolina corporation owned by brothers JAMES OTIS HENDERSON, also known as Jamie Henderson, and BARRON SLOAN HENDERSON, also known as Barry Henderson. HENDERSON AMUSEMENT, INC., has its main offices in Inman, South Carolina, and Spartanburg, South Carolina. HENDERSON AMUSEMENT, INC., also owned a facility with offices, storage and warehouse space in the Western District of North Carolina at 134 Banks Road, Kings Mountain, in Cleveland County.

6. HENDERSON AMUSEMENT, INC., JAMES HENDERSON, and BARRON HENDERSON (hereinafter sometimes referred to as "the HENDERSONS") operated video poker machines in the Western District of North Carolina beginning by October 1, 2000, and continuing at least through March 2007.

7. Certain HENDERSON employees, including JERRY PENNINGTON, were responsible for finding new locations at which to place the machines. They also negotiated with the owner of the location (hereinafter the "store owner") to establish what percentage of the net profits the HENDERSONS and the store owner would each receive. JEFFREY LEE CHILDERS was a store owner who operated HENDERSON video poker machines in Rutherford County.

8. Occasionally a player would win a jackpot, which could be thousands of dollars. If the jackpot was more than the store owner had on hand to pay out, the store owner could call a HENDERSON employee to ask him to deliver enough cash to pay it. This advance or loan was called "the bank" and the HENDERSONS would keep careful records of these cash deliveries to ensure that the store owner repaid them.

9. A HENDERSON employee would regularly visit the stores to check the machines and to collect the HENDERSONS' share of the profits. This was called a "checkup." The employee would usually take readings from the machines, and print out a slip of paper showing the amount of cash that had been taken in and paid out since the last previous reading. He would also complete a form that listed the readings for each machine (the checkup ticket), total the cash in and cash out for all the machines for the checkup period, and calculate the net profit to be divided between the merchant and the HENDERSONS.

10. The HENDERSON checkup employee then bundled the checkup ticket with the printout slip and the cash obtained from that location. The checkup employee would thereafter go to another store and perform the entire process again. The employee would eventually return to the HENDERSON facility in either Inman or Kings Mountain to drop off these bundles.

11. Another HENDERSON employee would deposit the cash into an account at Regions Bank in Spartanburg. The HENDERSONS then used the funds in the Regions Bank account, which were derived from and were the proceeds of an illegal gambling business, to engage in financial transactions with the intent to promote the carrying on of the illegal gambling business. In addition, the HENDERSONS used these funds in the Regions Bank account to engage in monetary transactions of a value greater than \$10,000.

Bribery of a Law Enforcement Officer

12. In order to facilitate their illegal gambling business in Rutherford County, North Carolina, JAMES HENDERSON and JEFFREY LEE CHILDERS entered into a scheme to pay bribes to a law enforcement officer who was an agent of Rutherford County and the State of North Carolina (hereinafter "the officer"). In furtherance of that scheme, they delivered quantities of cash directly and through an intermediary to the officer on multiple occasions between December 2006 and the present.

13. On or about December 7, 2006, in Rutherford County, JEFFREY LEE CHILDERS met with the officer and another person whose identity is known to the United States ("the other person"). In order to operate video poker machines illegally in Rutherford County, CHILDERS delivered \$1,380 in cash to the officer and promised more money in the future.

14. On or about December 19, 2006, in Rutherford County, JAMES HENDERSON and CHILDERS met with the officer and the other person and discussed their video poker machine operations in Rutherford County, asking for assurances that the officer would give them advance notice of any upcoming search warrants and for a promise that no competitors would be allowed to operate video poker machines in the county. They agreed to pay the officer a lump sum of \$1,000 each month, but JAMES HENDERSON agreed to start off with an initial payment of \$10,000. He handed the officer \$4,000 in cash, promising he would send CHILDERS with the rest of the \$10,000.

15. Later on December 19, 2006, in Rutherford County, CHILDERS delivered the remaining \$6,000 in cash to the other person, for purposes of having the other person deliver the cash to the officer.

16. On or about June 4, 2007, at a HENDERSON AMUSEMENT, INC., office in Inman, South Carolina, JAMES HENDERSON and CHILDERS met with the officer and the previously-mentioned other person. At that time, JAMES HENDERSON handed the officer \$2,000 in cash to obtain the officer's assistance in getting criminal charges against a HENDERSON employee's son

dropped or reduced. On or about June 13, 2007, CHILDERS delivered an additional \$2,900 to the other person to be delivered to the officer for the same purpose.

COUNT ONE (ILLEGAL GAMBLING BUSINESS)

17. Paragraphs 1 through 16 of this Bill of Information are realleged and incorporated herein by reference.

18. From a date on or before October 1, 2000, the exact date being unknown to the United States, and continuously thereafter through on or about August 2, 2007, in Buncombe County, Burke County, Caldwell County, Catawba County, Cleveland County, Gaston County, Haywood County, Henderson County, Jackson County, Lincoln County, Macon County, Polk County, Rutherford County, Swain County and Transylvania County, within the Western District of North Carolina, and within the District of South Carolina and elsewhere, the defendants,

- 1) HENDERSON AMUSEMENT, INC.
- 2) JAMES OTIS HENDERSON,
also known as Jamie Henderson
- 3) BARRON SLOAN HENDERSON,
- 4) JERRY PENNINGTON
- and
- 5) JEFFREY LEE CHILDERS,

did knowingly and willfully conduct, finance, manage, supervise and direct an illegal gambling business, said illegal gambling business involving the operation of video poker machines in violation of the laws of the State of North Carolina, in which state said business was conducted; which illegal gambling business involved, during the period aforesaid, five or more persons who conducted, financed, managed, supervised, directed and owned all or a part thereof; and which gambling business remained in substantially continuous operation for a period in excess of thirty days, and had a gross revenue in excess of \$2,000 in any single day, and did aid and abet one another in the commission of such a violation.

All in violation of Title 18, United States Code, Sections 1955 and 2.

COUNT TWO (BRIBERY)

19. Paragraphs 1 through 16 of this Bill of Information are realleged and incorporated herein by reference.

20. Rutherford County, North Carolina, was and is a governmental subdivision of the State of North Carolina. Rutherford County and State of North Carolina each received federal assistance in excess of \$10,000 within a period of one year of December 19, 2006.

21. On or about December 19, 2006, in Rutherford County, within the Western District of North Carolina, the defendants,

2) JAMES OTIS HENDERSON,
also known as Jamie Henderson,
and
5) JEFFREY LEE CHILDERS,

did knowingly and corruptly give, offer, and agree to give something of value to a law enforcement officer employed by the Rutherford County Sheriff's Office, an agent of Rutherford County and of the State of North Carolina, with the intent to influence or reward the law enforcement officer in connection with the business, transaction, and series of transactions of Rutherford County, the Rutherford County Sheriff's Office, and the State of North Carolina, involving something of value of \$5,000 or more, and did aid and abet one another in the commission of such offense.

All in violation of Title 18, United States Code, Sections 666(a)(2) and 2.

COUNT THREE (BRIBERY)

22. Paragraphs 1 through 16 of this Bill of Information are realleged and incorporated herein by reference.

23. Buncombe County, North Carolina, was and is a governmental subdivision of the State of North Carolina. Buncombe County and State of North Carolina each received federal assistance in excess of \$10,000 during each of the years 2002, 2003, 2004, 2005, and 2006.

24. From on or about January 2002, through on or about October 2006, in Buncombe County, within the Western District of North Carolina, the defendant,

4) JERRY PENNINGTON,

did knowingly and corruptly give, offer, and agree to give something of value to law enforcement officers employed by the Buncombe County Sheriff's Office, who were agents of Buncombe County and of the State of North Carolina, with the intent to influence or reward the law enforcement officers in connection with the business, transaction, and series of transactions of Buncombe County, the Buncombe County Sheriff's Office, and the State of North Carolina, involving something of value of \$5,000 or more.

All in violation of Title 18, United States Code, Section 666(a)(2).

COUNT FOUR(CONSPIRACY TO COMMIT MONEY LAUNDERING)

25. Paragraphs 1 through 16 of this Bill of Information are realleged and incorporated herein by reference.

26. Beginning on or about October 1, 2000, and continuing through the on or about August 2, 2007, in Buncombe County, Burke County, Caldwell County, Catawba County, Cleveland County, Gaston County, Haywood County, Henderson County, Jackson County, Lincoln County, Macon County, Polk County, Rutherford County, Swain County and Transylvania County, within the Western District of North Carolina, and within the District of South Carolina and elsewhere, the defendants,

- 1) HENDERSON AMUSEMENT, INC.,
- 2) JAMES OTIS HENDERSON,
also known as Jamie Henderson,
- 3) BARRON SLOAN HENDERSON,
also known as Barry Henderson,
and
- 4) JERRY PENNINGTON,

did combine, conspire, confederate and agree with each other, and with others known and unknown to the United States, to commit certain offenses against the United States, as follows:

a) knowingly to conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, involving proceeds of a specified unlawful activity, that is, an illegal gambling business, with the intent to promote the carrying on of said specified unlawful activity, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(a)(i); and

b) knowingly to engage, attempt to engage, in monetary transactions by, through, or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a

value greater than \$10,000, such property having been derived from a specified unlawful activity, that is, an illegal gambling business, in violation of Title 18, United States Code, Section 1957.

All in violation of Title 18, United States Code, Section 1956(h).

NOTICE OF FORFEITURE

27. Notice is hereby given of the provisions of 18 U.S.C. § 982 and 28 U.S.C. § 2461(c). Under §2461(c), criminal forfeiture is applicable to any offenses for which forfeiture is authorized by any other statute, including but not limited to 18 U.S.C. § 981, 18 U.S.C. § 1955, and all specified unlawful activities listed or referenced in 18 U.S.C. § 1956(c)(7), which are incorporated as to proceeds by § 981(a)(1)(c). The defendants

- 1) HENDERSON AMUSEMENT, INC.
- 2) JAMES OTIS HENDERSON,
also known as Jamie Henderson
- 3) BARRON SLOAN HENDERSON,
also known as Barry Henderson,
- 4) JERRY PENNINGTON,
and
- 5) JEFFREY LEE CHILDERS,

have or had a possessory or legal interest in the following property that is subject to forfeiture in accordance with § 982 and/or § 2461(c):

- (a) all property involved in the violations alleged in this Bill of Information;
- (b) all property which is proceeds of such violations; and,
- (c) in the event that any property described in (a) or (b) cannot be located or recovered or has been substantially diminished in value or has been commingled with other property which cannot be divided without difficulty, all other property of the defendant, to the extent of the value of the property described in (a) and (b).

28. The following property is subject to forfeiture on one or more of the grounds stated above:

- (1) All currency and monetary instruments which were received during, involved in or used or intended to be used to facilitate the crimes alleged in this bill of Information, including but not limited to the following:

a) the sum of \$10,000,000 in proceeds obtained jointly by HENDERSON AMUSEMENT, INC., JAMES OTIS HENDERSON, and BARRON SLOAN HENDERSON;

b) the sum of approximately \$165,000 in United States Currency, seized on or about May 17, 2005, at the HENDERSON AMUSEMENT, INC., facility at 134 Banks Road, Kings Mountain, North Carolina.

c) the sum of approximately \$22,380 in bribe money, delivered by JAMES HENDERSON and JEFFREY LEE CHILDERS and intended for a Rutherford County Sheriff's Office law enforcement agent between December 7, 2006, and June 13, 2007;

d) the sum of approximately \$7,616 in United States Currency seized from HENDERSON AMUSEMENT, INC., on or about April 4, 2004, in Boiling Springs, North Carolina.

e) the sum of approximately \$100,000 in United States Currency received as income by JERRY PENNINGTON from HENDERSON AMUSEMENT, INC.

f) all video gaming machines, and all video gaming machine components and cabinets, seized between October 1, 2000 and the date of entry of this plea agreement, that are currently in the custody of any federal law enforcement agency, or any North Carolina state, county, or local law enforcement agency.

(2) All title and interest in the following real property, in that such property was involved in the aforesated offenses or is traceable to such property:

a) Property located at 134 Banks Road, Kings Mountain, North Carolina, and found in Cleveland County Deed Book 1308, Page 2312.

b) Property located at 918 Long Branch Road, Grover, North Carolina, and found in Cleveland County Deed Book 1340, Page 1007.

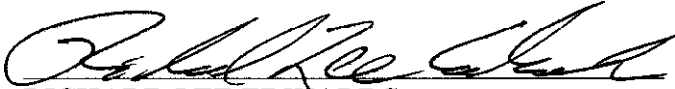
c) Property located at 100 Malibu Drive, Spartanburg, South Carolina, and found in Spartanburg County Deed Book 75C, Page 739.

c) Property located at 11064 Asheville Highway, Inman, South Carolina, and found in Spartanburg County Deed Book 81A, Page 058.

e) Property located at 261 Airline Drive, Forest City, North Carolina, found in Rutherford County Deed Book 638, Page 355.

Respectfully submitted,

GRETCHEN C.F. SHAPPERT
UNITED STATES ATTORNEY

A handwritten signature in black ink, appearing to read "Richard Lee Edwards", written over a horizontal line.

RICHARD LEE EDWARDS
COREY F. ELLIS
ASSISTANT UNITED STATES ATTORNEYS